

COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. §§ 1983

Name Brown II William Odessa

(Last)

(First)

(Initial)

Prisoner Number K93463

Institutional Address Hwy 101 PO Box 686, Eufaula CA  
93960-0689, Correctional Training Facility - (CTF)

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

William Odessa Brown II  
 (Enter the full name of plaintiff in this action.)

vs.

Correctional Training Facility  
et al.  
(See Attached, Named Defendants)

(Enter the full name of the defendant(s) in this action)

CV 07

Case No. 5962  
 (To be provided by the clerk of court)

COMPLAINT UNDER THE  
 CIVIL RIGHTS ACT,  
 42 U.S.C §§ 1983

E-filing

[All questions on this complaint form must be answered in order for your action to proceed..]

I. Exhaustion of Administrative Remedies

[Note: You must exhaust your administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.]

A. Place of present confinement Correctional Training Facility

B. Is there a grievance procedure in this institution?

YES (X) NO ( )

C. Did you present the facts in your complaint for review through the grievance procedure?

YES (X) NO ( )

D. If your answer is YES, list the appeal number and the date and result of the appeal at

COMPLAINT

each level of review. If you did not pursue a certain level of appeal, explain why.

1. Informal appeal By Pass

2. First formal level By Pass

3. Second formal level CTF-07-00553

Denied

4. Third formal level stated Second level Response  
sufficient administrative Appeals.

E. Is the last level to which you appealed the highest level of appeal available to you?

YES (X) NO ( )

F. If you did not present your claim for review through the grievance procedure, explain why.

## II. Parties

A. Write your name and your present address. Do the same for additional plaintiffs, if any.

William Brown

See Attached pg # 243

B. Write the full name of each defendant, his or her official position, and his or her place of employment.

See Attached pg # 243

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4 III. Statement of Claim

5 State here as briefly as possible the facts of your case. Be sure to describe how each  
6 defendant is involved and to include dates, when possible. Do not give any legal arguments or cite any  
7 cases or statutes. If you have more than one claim, each claim should be set forth in a separate  
8 numbered paragraph.

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10 See Attached pg #'s 4-21  
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22 IV. Relief

23 Your complaint cannot go forward unless you request specific relief. State briefly exactly what  
24 you want the court to do for you. Make no legal arguments; cite no cases or statutes.

25 See Attached pg # 22  
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I declare under penalty of perjury that the foregoing is true and correct.

Signed this 19 day of Nov, 2007

  
(Plaintiff's signature)

1 William Brown II  
2 K93463 OW241  
3 Hwy 101, Po Box 689  
4 Soledad, CA 93960-0689  
5 Petitioner, In Pro Per

6 United States District Court  
7 Northern District of California

8 William Brown, II,  
9 Petitioner,

10 vs.

CASE NO.

11 Correctional Training  
12 Facility et al., in their  
13 official and/or individual  
14 capacities, (see attached for  
15 named defendants),  
16 Defendants.

17  
18 Civil Rights Complaint  
19 With A Jury Demand

20 This is a 1983 action filed by William Brown, a  
21 State Prisoner, alleging violation of his constitutional  
22 rights and seeking money damages, declaratory judgment,  
23 and injunctive relief. The plaintiff requests a trial  
24 by jury.  
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Parties to the Action

William Adessa Brown II

Petitioner

Defendants listed

E. Stephens

J. Soreli

C. Noll

G. A. Ortiz

P. G. Dennis

G. M. Gonzales

A. Bernal

J. R. Solas

D. N. Garcia

D. G. Metcalf

D. N. McCall

Z

## Jurisdiction

This is a Civil Rights Action under 42 USC § 1983. This Court has jurisdiction under 28 USC § 1343. Plaintiff also invokes the pendent jurisdiction of this Court.

## Parties

Petitioner William Brown II is presently incarcerated at Correctional Training Facility (CTF), state prison, in Soledad, CA, 93960-0689 and his address is Hwy 101, PO Box 689, K-93463 CDC#.

Defendants are all employed at (CTF) Hwy 101, PO Box 686, Soledad, CA 93960-0689.

Correctional Lieutenant (LT), E. Stephens; Associate Warden, G.A. Ortiz; Facility Captain, J. Sareli; Chief Deputy Warden, C. Noll; Correctional Counselor II, P. B. Dennis; Correctional Officer, G.M. Gonzales; Correctional Sergeant, A. Bernal; Correctional Officer, J. R. Salas; Correctional Officer, D.N. Garcia; and Correctional Lieutenant, D.G. McCall and Correctional Lieutenant, D.N. McCall.

## Statement of Facts

### I

On 19 Dec 2006, petitioner was issued an Rule Violation Report, (RVR) log # VI-12-06-025 for the Specific Acts of "Delaying A Peace Officer In the Performance of Their Duties." However that RVR was reduced to "Disobeying a Direct order."

Petitioner filed an appeal challenging the fact that staff put him in a ~~lose~~ win situation of policy and a direct order, that appeal was denied accordingly. Upon this denial, petitioner filed with the Chief of Inmate Appeals, petitioner proceeded with his complaint to Monterey Superior Court, HC 5775, on a Petition for Writ of ~~Habeas~~ Habeas Corpus.

On the 16 Aug 2007 the lower court initiated an order for the Attorney General, (A.G.) to file an Informal Response, that response was submitted on 14 Sept 2007 and due to the preponderance of evidence the Court issued an Order to Show Cause, that the petitioner was improperly found guilty of disobeying a direct order, 1 Nov 2007.

However, petitioner tried to resolve this issue at his RVR Hearing, but the Senior Hearing Officer (SHO), Lt. E. Stephens failed to allow the petitioner an adequate



1 and fair Hearing. The SHO did things his way during  
 2 the petitioners Hearing, thus violating his rights to due  
 3 process to a fair and impartial Hearing. Lt. Stephens  
 4 refused to follow policy and procedures when it  
 5 came to the Appellants Hearing. The Lt. was bias in his  
 6 actions in finding the plaintiff guilty of Disobeying  
 7 a direct order.

8  
 9 The actions of the Lt. was not only to punish the  
 10 plaintiff but to retaliate against him in order to protect  
 11 his fellow staff members. The Lt. (Stephens) just  
 12 could not dismiss the ROR he had to find the plaintiff  
 13 guilty of something, when he knew that the plaintiff was  
 14 deliberately put in a No win situation of Disobeying  
 15 Orders and in conflict with policy of having his ID.

16  
 17 Furthermore, G.A. Ortiz, Associate Warden, Chief  
 18 Disciplinary Officer, (CDO) and Facility Captain J. <sup>Soreli</sup> ~~Soreli~~  
 19 further condoned the actions of the SHO and failed to  
 20 correct the problem, thus adding to the retaliation and  
 21 denial of Due Process to a fair and impartial hearing.  
 22 Insofar, the Appellants appeal was also denied  
 23 to still add to the punishment or satisfactory  
 24 justification of the issue. The department flat out  
 25 refused to adjudicate this issue. Once the SHO issued  
 26 his bias decision with no regard to policy or the  
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1 Appellants rights, that decision was final regardless  
 2 of the petitioners rights to Appeal. The Department  
 3 flatout refused the appellant to prove his actions or  
 4 defend against the allegations that were alleged.  
 5

6 On the 14th Sept 2007 the Attorney General for the  
 7 matter of Habeas Corpus, HC 5775, states "that the petitioner  
 8 didn't lose any credits affecting his incarceration,"  
 9 the petitioner was given four (4) points to his Classification  
 10 Score Sheet, in which contributed to the increase of  
 11 custody levels, on 1 Nov 2007 Committee Review.  
 12

13 The appellant was found guilty of an Administrative  
 14 Rule Violation, in which no points can be assess.  
 15 Therefore the petitioner is still be punished for this  
 16 RVR even when the 115 does not meet protocol of the  
 17 California Code of Regulations, (CCR).  
 18

19 Deputy Warden, Chief, C. Noll and P. G. Dennis, CCI  
 20 deliberately denied the plaintiff an adequate appeal  
 21 process in violation of the (RVR), Senior Staff flatout  
 22 Denied the appellants ~~appeal~~ appeal with little or no regards  
 23 to the petitioners rights to argue or defend against  
 24 the allegations, their actions were retaliatory, vindictive  
 25 and deliberately-indifferent and wanton to the plaintiffs  
 26 Constitutional Rights, including the Deputy Warden, (CPIW).  
 27  
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1 W. Cohen when he allowed the assessment of additional  
2 points to the petitioner's security level on an Administrative  
3 Appeal. The actions of W. Cohen were unnecessary, wanton  
4 and retaliatory towards the plaintiff.  
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## II

On the 26 July 2007, petitioner was issued an (ISUR) for the Specific Acts of, "Obstructing A Peace officer In The Performance and Duty."

However on this date Correctional Officer C.M. Gonzales and his partner, (unknown female officer, Jane Doe). So Gonzales tried to force me back into my cell and refused me yard activities for ~~not~~ not going or attending Substance Abuse Program, (SAP) that day. The officer was not going to allow me to the yard.

Petitioner request to speak with the Sergeant that was working the Hall that day, (A. Bernal) as to why I was being confined to my cell without any disciplinary infractions, the Sergeant, (Sgt.) refused to speak with me about the issue.

Officer Gonzales had yard staff to escort me to a holding cage, with no bathroom access, for four (4) hours then I was released back to the yard without any other altercations.

Officer Gonzales, abused his authority to have his way to restrict me to my cell without an viable reason to restrain me to my cell. The actions of C.M. Gonzales were retaliatory and unnecessary. wanted to force or give an order to ~~restrain~~ restrain the petitioner to his cell.

1 Sergeant A. Bernal refused to discuss this issue with the  
 2 petitioner in order to resolve the issue, therefore his actions  
 3 condoned the action of C.M. Gonzales thus allowing the  
 4 officer to have his way, without him intervening in the  
 5 matter.

6 Now when the petitioner had his hearing on the  
 7 issue the (SHO) Lt. E. Stephens denied the petitioner  
 8 to due process, ~~and~~ an fair and impartial hearing.

9 Petitioner presented his documentation to the (SHO)  
 10 and it was ignored, the (SHO) found me guilty of the  
 11 charge and the charge does not support the requirements  
 12 of the CCR tit. 15 3315. Therefore Lt. E. Stephens  
 13 denied the plaintiff to an fair and impartial hearing.  
 14 The Lt. ignored policy & regulations and retaliated  
 15 against the petitioner in order to protect his fellow  
 16 staff members actions and accusations towards the  
 17 Plaintiff. The actions of the Lt. were unnecessary, wanton,  
 18 retaliatory to the plaintiff rights to a fair hearing the  
 19 Lt. was bias towards the petitioner.  
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22 Furthermore, Facility Captain, J. Saveli and  
 23 Associate Warden, Chief Disciplinary Officer, (CDO) G. A Ortiz  
 24 had the authority to correct this RUI in accordance with  
 25 the CCR, however this did not happen the RUI remained  
 26 without change, thus condoning the actions of the SHO and  
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1 further retaliating against the petitioner to an fair  
 2 hearing resulting in further retaliation towards the  
 3 Plaintiff. The actions of J. Soreli and G.A. Ortiz were  
 4 deliberately indifferent to plaintiff's rights, Administration  
 5 had the authority to correct the RVR and chose not to,  
 6 thus <sup>being</sup> vindictive to the petitioner's rights to an fair  
 7 hearing by Lt. E. Stephens or an appropriate review  
 8 of the RVRs to whether the plaintiff's due ~~process~~ process  
 9 was protected and ensuring that an fair hearing was given.  
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13 The charge of Obstructing A Peace officer in The Performance  
 14 and Duty does not support or meet the criteria of the ECR  
 15 for to be classified as an Serious Rule Violation, Petitioner  
 16 argued this point and the SHO ignored policy + procedures,  
 17 thus denying the plaintiff to present documentation in  
 18 order to defend against the charge. The SHO did what  
 19 he wanted to do in the hearing and deliberately denied the  
 20 Plaintiff his right to defend himself and prepare an  
 21 adequate defense. The SHO was already bias towards  
 22 the petitioner, he was going to find me guilty no matter  
 23 what the Appellants said, thus retaliating against the  
 24 petitioner to protect his fellow staff members.  
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### III

On 1 Jun 2007, petitioner was assigned to the (SAP) Substance Abuse Program, for fifty-nine days the petitioner did not attend this program due to a conflict with full time college correspondence course, litigations with courts and having a job on the yard crew.

On the 1st of Aug 2007, sixty days after being assigned to the SAP program petitioner was issued his first CDE ROR for not reporting to work.

During the plaintiff's hearing the (SHO) Senior Hearing refused to hear or allow the appellant to defend or mount an adequate defense. It already been shown that the appellants due process rights have been violated by the (SHO) Lt. E. Stephens. The (SAP) program is an rehabilitation program so how does it become a job? Petitioner argued that point and the (SHO) ignored the appellant.

### A.

Petitioner filed an Appeal that the appellant didn't fail to report to job assignment, that appeal was denied accordingly, log # ETK-S-07-03912, 2nd level Review.

Petitioner attached his ~~the~~ initial Committee Classification Report, 128-6 Chrono, in which clearly shows that the

1 plaintiff stated that he did not want to participate with  
 2 this program, due to the fact of a conflict with a  
 3 Full-time College Program (Correspondence), litigations  
 4 with the Courts and having an job on the yard as well  
 5 is overbarring.

6 Furthermore at the petitioners initial Committee  
 7 Review the Assignment Lt was not present, in which  
 8 the ~~individual~~ individual is to be present to address issues  
 9 such as jobs placement for job/work assignments, the  
 10 Petitioner was Not afforded that opportunity to  
 11 raise this issue with the Assignment Lt.

12 In the Appeal Petitioner tried to address the fact  
 13 that he didn't want to be in this program in which the  
 14 Appellant was denied his right to say No to a treatment  
 15 Program. As it has been stated that the petitioner ~~reason~~  
 16 it not attending this program is due to a conflict with his  
 17 College studies and litigations with the Court.

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 21 B.

22 Petitioner tried to explain to the SHO that he didn't  
 23 want to be in this program and was ignored when he  
 24 presented his documentation to Lt. E Stephens. The SHO  
 25 rejected what I had to say and found me guilty of  
 26 the charge. The SHO actions were out of retaliation  
 27 and vindictiveness to punish the plaintiff for not going  
 28



1 to this program, regardless of any documentation  
 2 expressing the fact that I didn't want to participate  
 3 with this program.

4 [However the institution/Administration knew of  
 5 my dissatisfaction to being placed into this program and  
 6 and deliberately and intentionally place the Plaintiff in  
 7 this program for failure. They knew I was not going  
 8 to participate with this program or anything dealing  
 9 with this Program.]

11 Furthermore, to the Petitioner's appeal, P. B. Dennis  
 12 C.C. II and C. Nell, Chief Deputy Warden condoned the actions  
 13 of the SHD, thus denying the petitioner to an fair Appeal  
 14 Process in which was denied. The actions of the C.C. II  
 15 and CDW were retaliatory and vindictive towards the  
 16 petitioner, although the plaintiff has stated that he didn't  
 17 want to participate with this Program in the first place.

19 In addition G. A. Ortiz, was deliberately indifferent  
 20 to the Plaintiff's Const. Rights, he had prior knowledge  
 21 that the Plaintiff did not want to be placed in this program  
 22 and condoned the actions of the Facility Captain J. Sandoz  
 23 and (SHD) Lt. E. Stephens. Ortiz heard or reviewed the  
 24 Plaintiff's Committee (Initial) Appeal and Disciplinary  
 25 Appeal. He failed to correct the issue and acknowledge  
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1 the fact the Petitioner stated he did not want to be  
2 in this program. Staff deliberately ignored the Plaintiff's  
3 contentions and deliberately ~~allow~~ let the matter  
4 go on in which was doomed for failure.  
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6 [In addition, at the petitioner's initial Committee Classification  
7 on 11 Oct 2006 there was no Assignment to the Classification  
8 Committee to afford the petitioner his right to be heard and  
9 contest the placement into this program-SAP.] In which  
10 denied the Plaintiff Due Process.  
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## IV

On the 3rd of Aug 2007, the Petitioner was in the law library, (attending to one of his cases M83511, reading documents to serve defendants), when Correctional officer's J. R. Salas and D. N. Garcia approached me namely J. R. Salas in a very aggressive manner. He asked me if I was to be in SAP, I replied, "yes", Salas then told or ordered me to get my SH T you're going back to yourself. I told him that's fine let me staple these documents and we can go. Officer Salas did not want to hear that. At this point in time J. R. Salas became belligerent and a total jackass towards me, Salas began to bump me with his chest, three times, while headbutting me with his forehead into the side of my right side of my face, while his chest (Salas) was hitting my right arm. Salas intentionally was being this aggressive with me to provoke me in assaulting him or taking a defensive pose. I never came at this Yellow Belly Salamander, although that I had an Green light to do so, Salas gave me the full permission to assault him, by his actions towards me. I never posed threat to the officers, I NEVER RAISED MY

1 HANDS from my sides, even with the staples in my  
 2 hand, it never happened. This is where D.N. Garcia  
 3 asked me to cuff up, in which I complied with and  
 4 I was taken to Ad. Sec. (lock-up) for doing nothing.

5 While in the hole, (lock-up, where I'm still), I was  
 6 issued an RVR for "Attempted Battery on A Peace Officer  
 7 with a weapon". Now when the petitioner had his hearing  
 8 by Lt. E. Stephens (SHO), petitioner was not afforded an  
 9 fair and impartial hearing by the SHO. Lt. Stephens  
 10 was clearly bias and discriminative towards the petitioner,  
 11 (SHO) ignored policy, rules & regulations and petitioners  
 12 documentation that was presented in defense of the charges  
 13 to show the plaintiffs innocence, the (SHO) ignored petitioners  
 14 witness all in order to protect J.R. Solas in finding  
 15 the plaintiff guilty of the RVR and deny the petitioners  
 16 a fair hearing process.

17 In accordance with the institutions own produced  
 18 documents show that the plaintiff did nothing, No  
 19 Force applied, No Victim, No Code one initiated, No  
 20 Assault reported, Staff - (SHO) had No evidence to  
 21 Prove the Allegations.

22 Furthermore to this situation Lt. D.G. Metcalf  
 23 initiate the petitioners D-114 Lock up order then the  
 24 Lt. (Lieutenant) Classified the petitioners RVR.  
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By the Lt. having initiated the lock-up order already  
 biasing his decision making process towards the petitioners  
 RVR, in which amounts to Retaliation and/or vindictiveness  
 to the Plaintiff.

B

The actions of J. R. Solas were unexcusable-wanton,  
 maliciously and sadistically, indifferent-deliberate to the  
 plaintiffs ~~constitute~~ constitutional rights when Solas assaulted,  
 aggressively grabbed the petitioners when there was no  
 threat to him.

The actions of D. H. Garcia were deliberately indifferent  
 to the plaintiffs rights when he allowed J. R. Solas to  
 bump/assault and physically grab the plaintiff and  
 did ~~not~~ nothing to stop Solas.

The actions of D. B. McCalp were retaliatory towards  
 the plaintiff when he was allowed to initiate an lock-up  
~~order~~ order than classify petitioners RVR in which  
~~he~~ does not meet the protocol of the CCR 3315,  
 to be serious Rule Violation.

1 (Lt) Lieutenant E. Stephens was deliberately indifferent  
2 in his actions when he performed his duties as the  
3 (SHO), Lt. Stephens refused the petitioner the right  
4 to an fair and impartial hearing, thus resulting in  
5 retaliation and vindictiveness measures being imposed  
6 by denying the Plaintiff due process to present evidence  
7 to defend against the charges. The (SHO) ignored policy  
8 and procedures and disallowed the plaintiff the right  
9 to have an fair hearing.  
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13 As to reference of all Rule Violation Reports,  
14 Petitioner claims all arguments in his Hearings to this  
15 petitions.  
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V

In Summary, out of all the Rule Violations that have been imposed upon the Plaintiff was done out of Retaliation and Vendictiveness. Petitioner was not afforded to a fair hearing of these RVR's by the SHD.

None of the RVR's that were issued to the Plaintiff met the protocol of the CER 3315, or classified pursuant to CER 3313, or have the necessary evidence to support the allegations or allow the plaintiff to present documentation or defend against the charges, thus denying the plaintiff due process to present his side of the story.

VI

### Conclusion

In contrast, with all of the RVR's they all extend ~~from~~ from the petitioner not attending the SAP program.

This Administration knew that the Petitioner contested the fact that he did not want to be in or participate with this program and the Administration ignored the Plaintiff's contentions and placed him in this Program, with little regards to the Plaintiff's already committed obligations, for failure to participate with

1 their forced upon SAP program. Petitioner has filed and  
2 Appeals, Staff Complaints regarding these issues.  
3

4 I declare, under penalty of perjury that the foregoing  
5 is true and correct.  
6

7 Dated:  
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10 Respectfully submitted,  
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13 William Brown  
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Supplemental Page  
Argument

Pursuant to California Code of Regulations (CCR) title 15 the Rule Violation Reports (RVR) that were issue to the Plaintiff do not meet protocol for Serious Rule Violations for the specific Acts of, "Obstructing a Peace Officer in the Performance and Duty," "Attempted Battery on a Peace Officer with a Weapon - Conduct Which Could Lead to Violence" and

Furthermore, Petitioner didn't refuse to attend his work assignment, his job doesn't begin until 1200 hrs, SAP is an Rehabilitative Program, How does Rehabilitation Program become a job or work program?

Finally, Lieutenant D.N. McCall and D.G. Metcalf failed to properly classify these RVR's in accordance with Serious Rule Violation Administrative Rule Violation requirements as defined by Classification of Rule Violation Reports.

Therefore by the actions of D.N. McCall and D.G. Metcalf was an abuse of authority and retaliatory in nature, when it came to the petitioner's liberty interest in classifying these RVR's.

As to D.N. Garcia the falsification of Documents.

Wm Bann

21

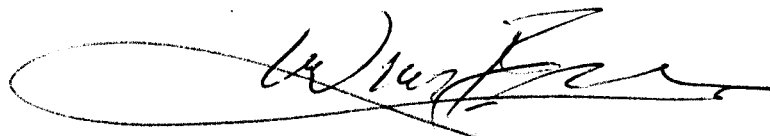
## Prayer for Relief

Plaintiff prays for judgement for cost of suit, for such relief as fair, just, and equitable; and for Compensatory and Nominal damages in the amount of Ten Thousand, (\$10,000.00) Dollars as to each defendant, per Rule violation, except to defendants J.R. Sales and D.N. Garcia, in the amount of Fifty-Thousand, (\$50,000.00) Dollars; as to Punitive and stress related sufferages in the amount of One-Hundred-Thousand, (\$100,000.00) Dollars, U.S. Currency, and insofar, any other relief the Court deems necessary and appropriate.

That all RVR's be dismissed, removed from C-File and that all credits be restored, forthwith. Also that any RVR that extends, or deals with the SAP program be dismissed, removed from C-File and all credits and forfeiture of time be restored.

Dated: 19 Nov 2007

Respectfully submitted



William Brown

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